

REMARKS

*Pending Claims*

Claims 1-14, 16-21, and 23-30 are now pending in this application. Claims 15 and 22 have been cancelled without prejudice, and claims 26-30 have been added by way of this filing. Independent claims 1 and 17 have been amended to include the limitations of now cancelled claims 15 and 22, respectively. New claims 26, 27, 28, and 29 are claims 12, 16, 20, and 23 rewritten in independent form, comprising all intervening limitations. New claim 30 comprises specific limitations as to the structure and construction of a dike bladder as shown, for example, in FIG. 1C and explained in the accompanying text. No new matter has been added by way of any of these amendments.

*Rejections of the Claims*

The Office Action dated August 13, 2002 rejected under 35 U.S. C. §102(e), claims 1, 3, 4, 7-9, 11, 13, 17-19, 21, 24, and 25 as anticipated by Miller, and claims 1-4, 7-10, 14, 17, 18, 24, and 25 as anticipated by Doolaege. The Office Action also rejected under 35 U.S.C. §103(a), claims 5 and 22 as obvious over Miller in view of Givens, Borquist, or Parish, claims 6 and 23 as obvious over Miller or Doolaege in view of Matsuoka, and claims 15 and 16 as obvious over Miller or Doolaege in view of the FEMA reference. Inasmuch as no apparent rejections have been made of claims 12 and 20, those claims have been placed in independent form as claims 26 and 28, respectively, including all the intervening limitations, and are considered to be in good form for allowance. Further, in view of the incorporation of the limitations of dependent claims 15 and 22 into claims 1 and 17, the rejections under 35 U.S.C. § 102(e) are now moot. It will be noted that other minor amendments have been made to some claims to place them in better form.

Turning now to the substantive rejections, claim 1 has been amended to include the limitations of claim 15, and claim 16 has been rewritten as independent claim 27. The Office Action rejected the coverage of both of these claims as obvious over Miller or Doolaege in view of the FEMA reference. The FEMA reference, however, goes to building a sandbag dike, as opposed to a dike made from a plurality of sandbags. The

In re Appln. of Clement  
Application No. 09/622,013

sandbags must be relatively small to allow transport of the same to a flood site for usage in building a flood control wall. As such, when used in the manner set forth in the FEMA reference, the poly is provided to act as a water barrier and to stabilize the pile of sandbags.

In sharp contrast, the bladders of the Doolaege and Miller references are waterproof in that they are constructed to contain a liquid, such as water. Further, the bladders are of a large size relative to the sandbags of the FEMA reference. The unfilled bladders are intended to be transported to the flood site, and then successively filled when positioned in order to provide an effective barrier against advancing floodwaters. The Miller reference, in particular, goes so far as to teach the use of a central tension member 32 that is sized to lock the filled barrier or bladder against rotation regardless of the forces placed on the barrier by flood waters (Miller, col. 4, ll. 61-67). Similarly, Doolaege teaches the placement of a pair of inner sleeves 14, 15 within an outer sleeve 13 to form an essentially rectangular block, which would likewise be resistant to movement or rotation. Thus, inasmuch as they are already waterproof or resistant, and they are of a relatively large size and constructed such that they would readily maintain their positions in the face of the force of advancing flood waters, the FEMA reference would not teach one to further utilize a liquid-tight in connection with a dike section made of such a plurality of already water resistant, and stable bladders. As a result, it is respectfully submitted that claims 1 and 27 would not be obvious over either the Miller or the Doolaege reference in view of the FEMA reference.

The Office Action also rejected the substance of dependent claims 22, the limitations of which are now contained in claims 17, as obvious over Miller or Doolaege in view of Givens, Borquist or Parish, and dependent claim 23, now rewritten in independent form as claim 29, as obvious over Miller or Doolaege in view of Matsuoka. Each of the secondary references cited, however, address the release or pressure measurement of air or a gas contained in a closed system. The properties of gas are fundamentally different as opposed the liquid contained in the systems of Miller or Doolaege. That being the case, it is respectfully submitted that one would not look to the Givens, Borquist, Parish, or Matsuoka references with regard to the measurement or flow

In re Appln. of Clement  
Application No. 09/622,013

control of the primarily liquid systems of Miller or Dooleage. As a result, the combination of these references is considered improper, and the applicant requests that the rejections be withdrawn.

Added claim 30 specifically sets forth a specific construction of the invention. In this arrangement, two sheets are disposed on either side of a central membrane. The opposite edges of each of the three are then secured collectively together to form a tube having first and second chambers disposed along either side of the membrane.

*Conclusion*

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call Pamela J. Ruschau, Registration No. 34242, at the number shown below.

Respectfully submitted,

*Andrea M. Augustine*  
\_\_\_\_\_  
Andrea M. Augustine, Reg. No. 46526  
LEYDIG, VOIT & MAYER, LTD.  
Two Prudential Plaza, Suite 4900  
180 North Stetson  
Chicago, Illinois 60601-6780  
(312) 616-5600 (telephone)  
(312) 616-5700 (facsimile)

Date: February 13, 2003